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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

PAUL G. SHEARER)	
)	
Plaintiff,)	No. 3:03-cv-00263-JKS
)	(CONSOLIDATED)
V.)	
)	
UNITED STATES OF AMERICA,)	
P. LYNN SCARLETT, Acting)	
Secretary of the)	
Interior, the DEPARTMENT OF)	
THE INTERIOR, the NATIONAL)	
PARK SERVICE.)	
)	
Defendants.)	
)	

DEFENDANTS' RESPONSES TO PLAINTIFF PAUL G. SHEARER'S FIRST SET OF INTERROGATORIES, FIRST REQUEST FOR PRODUCTION AND FIRST REQUESTS FOR ADMISSIONS TO UNITED STATES OF AMERICA

Defendants respond herein to PLAINTIFF PAUL G. SHEARER'S FIRST SET OF INTERROGATORIES, FIRST REQUEST FOR PRODUCTION AND FIRST REQUESTS FOR ADMISSIONS TO UNITED STATES OF AMERICA as follows:

Gross. Therefore, the addresses given are those known to the National Park Service at the time of the execution of the warranty deeds to the United States.

Mr. James N. Reeves, Ms. Ashley B. Callahan, and Ms. Regina L. Sleater are attorneys, and Mr. Reeves and Ms. Sleater also have an attorney-client relationship with defendants. While these individuals may have limited factual information regarding ownership and title to the properties (Parcels) still at issue in this action, that information may be subject to claims of privilege including attorney-client communications and attorney work product. Identification of these individuals in response to this interrogatory should not be interpreted as a waiver of any such claims of privilege.

Defendants object to this interrogatory to the extent that it would require defendants to provide information as to the title of any individual at the present time and also in the past as unduly burdensome, and to the extent it requires the titles of persons who are not government employees or public officials, as unduly burdensome and not designed to seek information that is relevant or material to the claims remaining in this proceeding, or reasonably calculated to lead to the discovery of relevant or material evidence. Defendants have provided the current titles for government officials.

Interrogatory 2. In accord with FRCP 26(a)(1)(B), please "describe by category and location of all documents, data compilations, and tangible things that are in USA possession, custody, or control" and that USA "may use to support" its claims

that USA had any right, title or interest in the Claims as of, and at any point subsequent to, the enactment date of section 120.

Response: Defendants have substantial records that pertain to the properties that remain subject to the proceedings in this action, and some of these documents are intermingled with documents related to properties that are no longer the subject of these proceedings. It would be unduly burdensome to require defendants to at this time to identify all of the respective documents that might or may be used in the future to support its claim that the United States held the full title and interest to Parcels 3, 11, 12, 13, 14, 15, 19 and 20 on the date of enactment of section 120. This action is still in its preliminary stages and defendants have not identified the materials the United States may use to support its position. Therefore, defendants object to this interrogatory.

The general objection stated at 2-3, *supra.*, which is incorporated herein by reference, and defendants also object to this interrogatory to the extent it seeks identification of documents pertaining to Parcels 1, 2, 4, 5, 6, 8, 9, 10, 16, 17, 18 and 21.

However, consistent with their obligations under to Fed. R. Civ. P. 34(b) defendants will produce during regular business hours and on a date or dates mutually agreeable to the parties all documents for which identification is sought held by the National Park Service, at the offices of the National Park Service, Alaska Region, 240 West 5th Avenue, Anchorage, Alaska

99501, in the manner in which these documents are kept in the usual course of business, except for the documents listed in Exhibit 1 hereto which are documents subject to the attorney-client communication and attorney work product privileges. To the extent information is sought with respect to information known to the Bureau of Land Management that material is available to plaintiff Shearer in the Bureau of Land Management, Public Information Center (Public Room), Federal Building and U.S. Courthouse, Room 148, 222 West 7th Avenue, Anchorage, Alaska 99513, during the normal business hours of 8:00 AM to 3:45 PM, Monday through Fridays, holidays excepted, and may be inspected and arrangements made for any copies may be made with that office.

Interrogatory 3. In accord with FRCP 26(a)(1)(B), please "describe by category and location of, all documents, data compilations, and tangible things that are in USA's possession, custody, or control" of the USA and that USA "may use to support" USA's claim that no person or organization other than USA had any right, title or interest in the Claims as of, and at any point subsequent to, the enactment date of section 120.

Response: Given the preliminary stages of this proceeding, defendants have with the exception of the deeds identified in response to Interrogatory 6 below, not identified the documents, data, compilations, etc. that they may use to support any claim that the United States alone held full title and interest in the properties described by plaintiff Shearer as Parcels 3, 11, 12,

RESPONSES TO REQUESTS FOR PRODUCTION

Objection to manner and place of discovery of requested production. Plaintiff Shearer requests that copies of all the documents and materials he has requested be produced to him by mail and sent to an address in Lake Oswego, Oregon, or that they be physically made available for examination and copying in Lake Oswego, Oregon. Defendants duty under the Federal Rules of Civil Procedure is (1) to state whether the requested materials will be produced, and (2) to make those materials available to plaintiff Shearer for his inspection and copying. Fed. R. Civ. P. 34. Any copying, however, is at the requestor's expenses. There is no duty on the defendants to actually copy of materials and deliver them to plaintiff Shearer. That may be done as a matter of courtesy or convenience, but is not required. However, to the extent that United States does not find it to be unduly burdensome, the United States generally expects it will elect to provide copies to Shearer.

Producing the requested materials for physical inspection in Lake Oswego, Oregon, would be unduly burdensome to the defendants. The Park Service has a substantial amount of documentary materials that is subject to the plaintiff Shearer's production requests that are held in the offices of the National Park Service, at the offices of the National Park Service, Alaska Region, 240 West 5th Avenue, Anchorage, Alaska 99501. Additional materials are also held in the BLM Public room in Anchorage,

Alaska. It would be unduly burdensome for the United States to transport documents to any location outside of there present location in Anchorage, Alaska.

GENERAL OBJECTION: Plaintiff Shearer's requests for production seek in part information with respect to the properties identified as Parcels 1 through and including Parcel 21 described in paragraphs 41-61 of the First Amended Complaint (Docket Entry No. 21) filed in *Paul G. Shearer v. United States, et al.*, Case No. A03-0263 CV (JKS) (D. Alaska). Pursuant to the Order (Docket Entry No. 78) filed April 4, 2006, plaintiff Shearer's claims with respect to Parcels 2, 4, 5, 6, 8, 9, 10, 16, 17, 18 and 21 have been dismissed. Therefore, defendants will not be providing responses herein specifically with respect to Parcels 2, 4, 5, 6, 8, 9, 10, 16, 17, 18 and 21, and objects to all requests for production that which seeks production of materials specific solely to these Parcels as unduly burdensome, not relevant or material to the claims remaining in this proceeding, and not reasonably calculated to lead to the discovery of relevant, material or admissible evidence.

Defendants also object to all discovery to the extent it seeks information specific only to Parcel 1, the 3.05 Acres of the Doherty lode claim. There is no dispute between the parties that the United States did not hold title to this property until it was taken on February 12, 1998, by operation of section 120 of the Act of November 14, 1997, Pub. L. No. 105-83, 111 Stat. 1543, 1564-66. Therefore, to the extent that Shearer's requests for production seek information specific solely to Parcel 1, those requests are unduly burdensome, and do not seek information that

as identified in the First Amended Complaint (Docket Entry No. 21) ¶ 58, have been dismissed. Order (Docket Entry No. 78) filed April 3, 2006. Therefore, this request is unduly burdensome, not relevant or material to the claims remaining in this proceeding, and not reasonably calculated to lead to the discovery of relevant, material or admissible evidence.

I declare subject to penalty of perjury that the response to Interrogatory 1 at 4-7, *supra*, is true and correct.

Executed this 16th day of June 2006.


CHARLES M. GILBERT

The remainder of the interrogatories are in the nature of contention interrogatories; not interrogatories seeking factual information. Therefore, undersigned counsel for the United States has responded to those interrogatories to the extent answers are provided, and have also responded to the requests for production and admissions.

Dated this 16th day of June 2006.


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